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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,792	05/13/2002	Philippe Schottland	GEPL.P-051	1633

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EXAMINER	
PATTERSON, MARC A	

ART UNIT	PAPER NUMBER
1772	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/063,792	SCHOTTLAND, PHILIPPE	
	Examiner	Art Unit	
	Marc A Patterson	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-77 is/are pending in the application.

4a) Of the above claim(s) 68-77 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-67 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 6/25/02, 9/16/03
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1 – 67, drawn to an article, classified in class 428, subclass 35.7.

II. Claims 68 – 77, drawn to a method of making an article, classified in class 264, subclass 177.2.

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to make a materially different product, such as one that is a lamp lens.

3. Because these inventions are distinct for the reasons described above, and have acquired a separate status in the art because of their recognized different classification and subject matter, and because the searches required for the groups are not the same, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Marina Larson on May 18, 2004, a provisional election was made with traverse to prosecute the invention of I, claims 1 – 67. Affirmation of this election must be made by applicant in replying to this Office action. Claims 68 – 77 are

withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 – 2, 9, 13 – 15, 22 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kozak et al (U.S. Patent No. 5,660,497).

With regard to Claim 1, Kozak et al disclose an article (sign, therefore not a lamp lens or bezel; column 4, lines 30 – 31) comprising a molded body (column 7, lines 32 – 34) formed from a plastic composition having an index of refraction of 1.6 (column 4, lines 50 – 51) and a fluorescent material (fluorescent glass, therefore photoluminescent; column 4, lines 23 – 25) wherein the article has a graphic image (shape; column 4, line 36) formed as protrusions on a surface thereof (the reflection of the image is enhanced by providing spheres which are embedded half – way in the medium comprising the sign and therefore are protruding from the medium; column 4, lines 63 – 66) and therefore provide a luminescent visual effect in the shape of the graphic image.

With regard to Claims 2, 9 and 22, the fluorescent material disclosed by Kozak et al comprises an organic fluorescent dye comprising xanthene (pigment comprising xanthene; column 7, lines 24 – 26).

With regard to Claims 14 – 15, the plastic disclosed by Kozak et al is polycarbonate (column 7, lines 31 – 32).

With regard to Claim 13, the images are formed from protrusions having a height of 1 mm (the spheres are beads having a diameter of 2 mm; column 9, lines 44 – 45).

With regard to Claim 42, the article comprises a sign and therefore is flat (column 4, lines 30 – 31).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 3 – 8, 10, 16 – 21, 23 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozak et al (U.S. Patent No. 5,660,497).

Kozak et al disclose a molded body comprising a fluorescent dye as discussed above. With regard to Claims 3 – 8, 10 16 – 21, 23 and 64, Kozak et al fail to disclose a dye having a concentration of 0.1% to 0.005% and 0.0001 to 0.0003% by weight and a dye providing a red or blue visual effect and a photoluminescent material comprising a material of nanosize. However, Kozak et al disclose a fluorescent dye having a concentration of at least a fraction of 1% fluorescent dye (the material comprises fluorescent dye; column 7, lines 24 – 26) and particle size of 2 mm (column 9, lines 44 – 45) and teaches the selection of concentration and color of the dye (column 6, line 41) based on workability and cost (column 6, line 37). Therefore one of

ordinary skill in the art would have recognized the utility of varying the concentration and color and particle size of the dye to obtain a desired workability and cost. Therefore, the workability and cost would be readily determined through routine optimization of concentration and color and particle size of the dye by one having ordinary skill in the art depending on the desired end use of the product.

It therefore would be obvious for one of ordinary skill in the art to vary the concentration and color and particle size of the dye in order to obtain a desired workability and cost, since the workability and cost would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Kozak et al.

9. Claims 11 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozak et al (U.S. Patent No. 5,660,497) in view of Lee (U.S. Patent No. 5,066,580).

Kozak et al disclose an article comprising xanthene as discussed above. With regard to Claims 11 – 12, Kozak et al fail to disclose xanthene having a quantum yield of 0.9 or greater. However, Lee teaches that xanthene has a quantum yield of 0.93 (column 1, line 24). A quantum yield of greater than 0.9 or greater is therefore inherent to Kozak et al.

10. Claims 24 – 41, 43 – 63 and 65 – 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozak et al (U.S. Patent No. 5,660,497) in view of Cornell et al (U.S. Patent No. 3,873,390) and Robinson (U.S. Patent No. 5,086,937).

Kozak et al disclose a sign comprising a photoluminescent material comprising a fluorescent material comprising xanthene as discussed above. With regard to Claims 24 – 41, 44

– 55, 57 – 63 and 65 – 67, Kozak et al fail to disclose an article comprising a substantially annular body portion and comprising a bottle having a bottom and a sealable top portion and an integrally molded handle.

Cornell et al teach that signs and labels are equivalent as photoluminescent articles (photoluminescent films are used interchangeably in both applications; column 1, lines 50 – 51) for the purpose of obtaining articles having long glow life (column 1, lines 60 – 61).

Robinson teaches the application of a label to a bottle having a sealable top portion (therefore also having a bottom; column 1, lines 44 – 49) and annular body portion (opening; column 4, line 21) and integrally molded handle (column 4, lines 31 – 33) for the purpose of obtaining a bottle that is capable of resisting deformation (column 4, lines 54 – 58). Therefore, one of ordinary skill in the art would have recognized the advantage of providing for the label of Cornell et al in Kozak et al depending on the desired glow life of the end product as taught by Cornell et al, and of providing for the label of Kozak et al and Cornell et al to the labelled bottle of Robinson, thus obtaining an article having substantially annular body portion and comprising a bottle having a bottom and a sealable top portion and an integrally molded handle, depending on the desired resistance to deformation of the end product as taught by Robinson.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a label in Kozak et al in order to obtain an article having a long glow life as taught by Cornell et al and to have provided for a labeled bottle in Kozak et al in order to obtain obtain a bottle that is capable of resisting deformation as taught by Robinson.

With regard to Claims 43 and 56, the article comprises a sign, as discussed above, and therefore comprises a pane for covering a picture.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (571) 272 – 1497. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571) 272 – 1498. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.
Art Unit 1772

HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

6/28/04